

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

<b>ERIC WARE, and YUMBA LASUMBA,</b>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil No. <b>04-925-WDS</b>
	)	
<b>JASON GARNETT, and</b>	)	
<b>CHAPLAIN LOVE,</b>	)	
	)	
Defendants.	)	

**REPORT AND RECOMMENDATION**

**PROUD, Magistrate Judge:**

This Report and Recommendation is respectfully submitted to Judge William D. Stiehl pursuant to 28 U.S.C. §§636(b)(1)(B) and (C).

Before the Court is plaintiff Ware's Motion for Temporary Restraining Order. (**Doc. 104**). Defendants have filed a response at **Doc. 105**.

Plaintiff's underlying claim is that his First Amendment rights were violated in various ways by defendants Garnett and Love at Lawrence Correctional Center in 2004 and 2005. In the instant motion, Ware seeks an order preventing the current warden of that institution, Warden Ryker, and Chaplain Love from retaliating against him and from interfering with his ability to practice his religion.

Where, as here, all parties are given notice and a chance to respond motion for temporary restraining order can be treated as a motion for a preliminary injunction under Fed.R.Civ.P. 65(a). *Levas v. Village of Antioch*, 684 F.2d 446, 448 (7<sup>th</sup> Cir. 1982).

Plaintiff's motion should be denied because, for the reasons discussed in this court's

Report and Recommendation on Defendants' Motion for Summary Judgment, plaintiff does not have a reasonable likelihood of success on the merits of the underlying claim. *See, Kiel v. City of Kenosha*, 236 F.3d 814, 815-6 (7<sup>th</sup> Cir. 2000). Plaintiff has not demonstrated an on-going constitutional violation, which is a necessary predicate for injunctive relief. *Al-Alamin v. Gramley*, 926 F.2d 680, 685 (7<sup>th</sup> Cir. 1982).

**Recommendation**

This court recommends that plaintiff Ware's Motion for Temporary Restraining Order (Doc. 104) be **DENIED**.

Objections to this Report and Recommendation must be filed on or before **March 17, 2008**.

**Submitted: February 27, 2008.**

s/ Clifford J. Proud  
**CLIFFORD J. PROUD**  
**U. S. MAGISTRATE JUDGE**